

Before the State of South Carolina  
Department of Insurance

In the matter of:	)	
	)	SCDI File Number 113715
NationsBanc Insurance Company, Inc.	)	
	)	Consent Order
201 North Tryon Street	)	Imposing Administrative Penalty
Charlotte, North Carolina 28255	)	
_____	)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and NationsBanc Insurance Company, Inc., (NationsBanc), an insurer licensed to transact insurance business within the State of South Carolina.

NationsBanc hereby admits, and I find as fact, that it failed to maintain records for five years, failed to provide information or provide access to information as requested by examiners, failed to use duly licensed and appointed agents to solicit business and take applications, failed to notify the Department when an agent's contract was cancelled with the company, failed to notify customers of the right to continue insurance coverage under refinanced loans, and failed to have directors sign affidavits stating under oath that they had received a copy of the adopted report and related order of the Director for the Department of Insurance. NationsBanc has alleged that these violations of South Carolina statutes were completely unintentional. However, these actions are a direct violation of S.C. Code Ann. §§ 38-13-120 (Supp. 2002), 38-13-20 (B) (Supp. 2002), 38-43-20 (Supp. 2002), 38-43-50 (Supp. 2002), 34-29-162 (Supp. 2002) and 38-13-30 (D)(1) (Supp. 2002) and can ultimately lead to the revocation of the insurer's certificate of authority pursuant to S.C. Code Ann. § 38-5-120 (A) (2) (Supp. 2000) to transact the business of insurance within the State of South Carolina, subject to the insurer's right to a public hearing before the Administrative Law Judge Division.

Prior to the initiation of formal administrative disciplinary proceedings by the Department against it, NationsBanc and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. That consensual recommendation was that, in lieu of the Department's filing of a petition to revoke its certificate of authority to transact business as an insurer within the State of South Carolina, NationsBanc would waive its right to a public hearing, immediately submit an administrative penalty in the total amount of \$17,000.

S.C. Code Ann. § 38-13-120 (Supp. 2002) in pertinent part states "All companies doing any kind of insurance business in this state shall make and keep a full and correct record of the business done by them. These records must be kept for a minimum of five years.

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S.C. Code Ann. §38-21-140 (3)(b) (Supp. 2000) in pertinent part states "Every person or insurer or its officers, directors, and agents from whom information is sought shall provide to the examiners appointed under subsection (A) timely, convenient, and free access at all reasonable hours at his or its offices to all books, records, accounts, papers, documents, and all computer or other recordings relating to the property, assets, business and affairs of their person or insurer being examined. The officers, directors, employees and agents of the insurer or person shall facilitate the examination and aid in the examination so far as it is in the power to do so."

S.C. Code Ann. §38-43-20 (Supp. 2002) in pertinent part states "No person may act as an agent for an insurer or for a fraternal benefit association unless an agent's license has been issued to him by the director or his designee."

S.C. Code Ann. §34-43-50 (Supp. 2002) in pertinent part states "When a contract of an agent is cancelled by the insurer represented, that insurer shall notify the Department of the cancellation within ten days stating the cause of the termination."

S.C. Code Ann. §34-29-162 (Supp. 2002) in pertinent part states "If a consumer defers, refinances or consolidates a loan and the insurance coverage upon the original loan has not lapsed: (1) the incontestability and waiting periods for insurance coverage, up to the amount of the coverage remaining at the time of the deferral, refinancing, or consolidation and for an additional period not to exceed the length of the term of the original insurance, must be based upon the date on which the insurer originally insured the debtor with respect to the insurance coverage on the indebtedness that is deferred, refinanced, or consolidated: and (2) the insurance coverage, up to the amount of the coverage remaining at the time of the deferral, refinancing, or consolidation and for an additional period not to exceed the length of the term of the original insurance, on the indebtedness that is deferred, refinanced or consolidated may not be subject to evidence of insurability."

S.C. Code Ann. §38-13-30(D) (Supp. 2002) in pertinent part states "...Within thirty days of the issuance of the adopted report, the insurer shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders."

After a thorough review of the matter, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law that NationsBanc did violate S.C. Code Ann. §§ 38-21-250 (2)(iv) and 38-21-140 (3)(b) (Supp. 2002). Although I can now revoke the insurer's certificate of authority, I hereby impose an administrative penalty in the amount of \$17,000 against NationsBanc pursuant to the discretion provided to me by the State of South Carolina General Assembly in S.C. Code Ann. §§ 38-5-130 and 38-2-10 (Supp. 2002). This administrative penalty must be paid within ten days of my date

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and my signature upon this consent order. If that total amount is not paid on, or before, that date, then Capital City's certificate of authority to transact business as an insurer within the State of South Carolina will be summarily revoked without any further administrative disciplinary proceedings.

This administrative penalty has been reached by the parties as a result of negotiation and compromise, and in consideration of the internal corrective measures NationsBanc has taken to prevent this problem from recurring and of its assurance that it will in the future comply with South Carolina insurance statutes and regulations. By the signature of one of its officers or authorized representatives upon this consent order, NationsBanc acknowledges that it understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000).

Nothing contained within this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 2002), of the Director of Insurance, exercised either directly or through the Department, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that NationsBanc Insurance Company, Inc. shall, within ten days of my date and my signature upon this consent order, pay through the Department an administrative penalty in the total amount of \$17,000.

It is further ordered that a copy of this consent order shall be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective on the date of my signature below.




Ernst N. Csiszar  
Director

March  
January 25, 2003  
Columbia, South Carolina



NationsBanc Insurance Company, Inc.

I CONSENT:

  
\_\_\_\_\_  
Signature of Authorized Representative

J-KEITH PELZER  
\_\_\_\_\_  
Name

DIRECTOR SVP  
\_\_\_\_\_  
Title

NationsBanc  
201 North Tryon Street  
Charlotte, North Carolina

Dated this 28<sup>th</sup> day of ~~January~~ <sup>February</sup>, 2003